

GOVERNMENT OF ANDHRA PRADESH
ABSTRACT

Mines and Minerals – Development of Gangavaram Port near Visakhapatnam – Grant of exemption of Seigniorage fee on Minor Minerals including sand to M/s. Gangavaram Port Limited for construction purpose – Orders – Issued – Amendment – Issued.

INDUSTRIES AND COMMERCE (MINES.I) DEPARTMENT

G.O.Rt.No. 21

Dated: 9-1-2009.

Read the following:

1. G.O.Rt.No.145, Ind. & Com. (M.I) Dept. dt.18.5.2006.
2. W.P.No.20067/2008 filed by Sri Ch. Polaiah and others before Hon'ble APHC.
3. From the Hon'ble High Court of A.P., orders dated 23.9.2008.
4. From the DM&G file No.35134/R1.2/2008, dated 20.10.2008.

ORDER:

In the reference 1st read above Government have issued orders exempting M/s. Gangavaram Port Limited from obtaining any lease or permit for quarrying any minor mineral and payment of seigniorage fee on the quantities of Minor Minerals excavated from within the lands allocated for Gangavaram Port and also on the quantities of minor mineral material procured from quarry leases or lifted from authorized quarries etc., outside the area of Gangavaram port as allocated by the Director of Mines and Geology to the extent of quantity consumed in civil construction works of Gangavaram Port, during the construction period, under Rule 5 & 11(1) (C) of A.P. Minor Mineral Concession Rules, 1966.

2. In the reference 2nd read above the orders issued in the reference 1st cited were challenged by Sri Ch.China Polaiah and others in the Hon'ble High Court of A.P. by filing W.P.No.20067/2008 on the ground that it violates Section 4 of Mines and Minerals (Development and Regulation) Act., 1957.

3. In the reference 3rd cited the Hon'ble High Court of Andhra Pradesh has ordered as follows:

“As the orders of the State Government in G.O.Ms.No.145, Ind. & Com. (M.I)(2) Dept., dt.18.5.2006, to the extent it exempts the fifth respondent from the obligation of obtaining lease or permit for quarrying any minor minerals invoke the authority for granting such exemption under the proviso to Rule 5, the order of the State Government in G.O.Ms.No.145 is also declared invalid but insofar as it exempts the fifth respondents from obtaining any lease or permit for quarrying any minor mineral (vide Paragraph 3 of the G.O.Ms.No.145, dt.18.5.2006)”. The petitioner also challenge the exemption granted to the fifth respondent from payment of seigniorage fee by seeking invalidation of the provisions of Rule 11(1)(d) of the 1966 Rules. Rule 11(1)(c) preserves to the Government the right to waive the collection of Seigniorage fee and dead rent at the Government's discretion. The power of the State Government to make rules in respect of minor minerals qua the grant of such power under Section 15 of the Act is platitudinous and constrained only by the applicable provisions of the Act. The grant of power as set out in Section 15(1) and (1A) and in particular clause (0) of Section 15(1)(a) “any other matter which is to be, or may be, prescribed” does not enjoin any restriction on the State which disables the State from exercising discretion to waive the obligation of payment of seigniorage fee. The petitioners have not made out a case either in pleadings or in oral argument at the Bar regarding the abuse of such discretion by the State, nor do the

(Pto)

petitioners point out any infirmity in the exercise of such power by the State. For these reasons, the challenge to the State action, of granting exemption from payment of seigniorage fee to the fifth respondent, must fail and is accordingly rejected.

4. In the reference 4th cited the Director of Mines and Geology has requested to amend the G.O.Ms.No.145, Ind. & Com. (M.I) Dept., dt.18.5.2006 duly deleting the portion with regard to the exemption given to M/s. Gangavaram Port Limited from the obligation of obtaining the lease.

5. Government after careful examination of the matter in consultation with Law Department hereby decided to issue the following amendment to the orders issued in the reference 1st read above:

AMENDMENT

in para 3 of G.O.Ms.No.145, Ind. & Com. (M.I) Dept. dated 18.5.2006 the words “obtaining any lease or permit for quarrying any minor mineral and” are deleted.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH)

Y. SRILAKSHMI
SECRETARY TO GOVERNMENT

To
M/s. Gangavaram Port Limited,
354/A, New MLA Colony,
Road No. 12, Banjara Hills,
Hyderabad – 34. (RPAD)

Copy to:

The Director of Mines and Geology, Hyderabad.
All the DDM&G & ADM&G in the State through DM&G
The District Collector, Visakhapatnam and all District Collectors in the State.
The Accountant General, A.P. Hyderabad.
The Secretary, Govt. of India \, Ministry of Mines, New Delhi.
The Controller General, Indian Bureau of Mines, Nagpur.
The Director General, Mines Safety, Dhanbad, Bihar.
The Regional Controller of Mines, IBM, Koti, Hyderabad.
The Transport, Roads & Buildings (Ports) Department.
The Finance (Expr. I&C) Department.
The Panchayat Raj & Rural Development (Pts.III) Department.
The Municipal Administration & Urban Development Department.
The Industries and Commerce (IF Cell) Department (2 copies)
The I&I Department.
The P.S. to C.M/ M (Fin.)/ M(M&G)/ M(Ports)/ M(P.R)/ M(M.A).
The P.S. to Prl. Secy. to Govt., & CIP, Ind. & Com. Deptt.,
The P.S. to Secretary to Govt., Ind. & Com. Dept.,
Sf/Scs.

//forwarded by order//

Section officer